

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

|                                   |   |                             |
|-----------------------------------|---|-----------------------------|
| SHURE INCORPORATED, AND           | ) |                             |
| SHURE ACQUISITION HOLDINGS, INC., | ) |                             |
|                                   | ) |                             |
| Plaintiffs,                       | ) |                             |
|                                   | ) | No. 1:19-cv-01343(RGA)(CJB) |
| v.                                | ) |                             |
|                                   | ) |                             |
| CLEARONE, INC.,                   | ) |                             |
|                                   | ) |                             |
| Defendant.                        | ) |                             |

**AMENDED JOINT CLAIM CONSTRUCTION CHART**

Pursuant to the Court's June 18, 2020 Oral Order, Plaintiffs Shure Incorporated and Shure Acquisition Holdings, Inc. and Defendant ClearOne, Inc., met and conferred to discuss the joint claim construction chart and the disputed issues in this case. Below are the parties' respective, revised constructions of the sole claim of U.S. Design Patent No. D865,723 as considered during the meet and confer:

| <u><b>Claim</b></u>   | <u><b>Plaintiffs' Construction</b></u>  | <u><b>Defendant's Construction</b></u>   |
|---|---|--|
| <p>"The ornamental design for an array microphone assembly, as shown and described"</p> | <p>The ornamental design for an array microphone assembly, as shown in the solid lines and associated claimed surfaces of Figures 1-6 and described in the specification of the '723 patent.</p> <p>The Claimed Design should be considered as a whole and the broken lines in Figures 1-6 of the '723 patent form no part of the Claimed Design. No features of the Claimed Design are purely functional and/or dictated solely by function, thus all features of the Claimed Design have ornamental design elements and should be included in the claim construction.</p> | <p>Indefinite. The scope of the claim is not clear with reasonable certainty because the ordinary observer would have no way of resolving the differences between Figure 2 (showing and claiming a pattern of sixteen slots around the periphery of the back panel) and Figure 4 (showing and claiming a square shaped back panel with no slots around the periphery).</p> <p>To the extent the claim can be construed, the Court should determine that the thin, square shape of the claimed array microphone assembly design is functional because, as the array microphone assembly is intended to replace a standard ceiling tile, the thin, square shape of the claimed array microphone assembly is dictated by the shape of a standard ceiling tile.</p> <p>To the extent the claim can be construed, the Court should also determine that the extent to which the front face of Shure's design (as depicted in Figure 3) looks like prior art ceiling vents is functional, because that allowed the claimed device to blend invisibly into a drop ceiling by adopting an air-and-sound</p> |

|  |  |  |
|--|--|--|
|  |  | <p>passing form with which people were already familiar.</p> <p>To the extent the claim can be construed, the Court should also account in its claim construction for the fact that numerous pieces of prior art, including ceiling speaker prior art and HVAC prior art, feature the same thin, square shape as that shown in the claimed design, as well as the same perforated metal grille, both with a white frame and without, as depicted in the tables on pages 34 and 40 of the Joint Claim Construction Brief.</p> <p>To the extent the claim can be construed, Defendant agrees with Plaintiff that the broken lines in Figures 1-6 of the D'723 patent form no part of the claimed design.</p> |
|--|--|--|

Dated: July 14, 2020

MORRIS, NICHOLS, ARSHT &  
TUNNEL LLP

/s/ Michael J. Flynn

Michael J. Flynn (#5333)  
1201 North Market Street  
Wilmington, DE 19899  
(302) 658-9200  
mflynn@mnat.com

John C. Hueston  
Douglas J. Dixon  
Christina V. Rayburn  
Sourabh Mishra  
HUESTON HENNIGAN LLP  
620 Newport Center Drive. Ste. 1300  
Newport Beach, CA 92660  
(949) 226-6741

*Attorneys for Defendant ClearOne, Inc.*

McCARTER & ENGLISH, LLP

/s/ Brian R. Lemon

Alexandra M. Joyce (#6423)  
Michael P. Kelly (#2295)  
Brian R. Lemon (#4730)  
405 N. King St., 8th Floor  
Wilmington, DE 19801  
(302) 984-6300  
ajoyce@mccarter.com  
mkelly@mccarter.com  
blemon@mccarter.com  
Wilmington, Delaware 19899

*Of Counsel:*

Gerald F. Ivey  
Mareesa A. Frederick  
Elizabeth D. Ferrill  
Sydney English  
FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER  
901 New York Avenue, N.W.  
Washington, D.C. 20001-4413  
(202) 408-4000

Elliot C. Cook  
J. Derek McCorquindale  
Alexander M. Boyer  
David N. Lefcowitz  
Joseph M. Schaffner  
Luke H. MacDonald  
FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER,  
Two Freedom Square  
11955 Freedom Drive  
Reston, VA 20190-5675  
(571) 203-2700

*Attorneys for Plaintiffs*